

## Law Offices of Ezra Spilke

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October 5, 2023

**By ECF**

The Honorable Kimba M. Wood  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**MEMO ENDORSED**

Re: *United States v. Alexis Valdez*, No. 17 Cr. 487 (S.D.N.Y.)

Your Honor:

I write to respectfully request reappointment as counsel for Alexis Valdez for the purpose of exploring and potentially filing a motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). That statute permits a court to modify a term of imprisonment if it finds that “extraordinary and compelling reasons warrant such a reduction.”

I have been in contact with Mr. Valdez, who intends to file a motion for a sentence reduction for “extraordinary and compelling reasons.” Mr. Valdez was recently moved from USP Canaan, where his motion to the warden had been proceeding, to Ray Brook. He will soon exhaust his administrative remedies. The grounds for reduction need to be explored further but, based on discussions with Mr. Valdez and materials that Mr. Valdez has forwarded to me, he has compelling family reasons supporting early release. His mother, who was already blind at the time of sentencing, is losing mobility and is on her own. In addition, the mother of Mr. Valdez’s nine-year-old daughter died unexpectedly. The daughter is in the custody of one of Mr. Valdez’s siblings.

Mr. Valdez has also made exceptional strides towards rehabilitation. In a note dated November 7, 2022, the coordinator of the BOP’s Challenge program at USP Canaan wrote:

VALDEZ has demonstrated strong leadership and had provided excellent role modeling for his fellow peers, and he was thus promoted to the position of Challenge Program Mentor. He regularly demonstrates willingness, caring, and responsibility through skits, actions, and spoken word. He assists with community meetings, ceremonies, study hall, and with individual case-by-case needs for his peers. Inmate VALDEZ has demonstrated the unique ability to transcend the barriers often associated with gang affiliation and individual differences to reach out to all members of the community during times of need.

Hon. Kimba M. Wood  
Re: Reappointment of Counsel

October 5, 2023  
Page 2 of 2

Congress decided that “[r]ehabilitation of the defendant *alone* shall not be considered an extraordinary and compelling reason.” 28 U.S.C. § 994(t) (emphasis added). But, as implied by Congress’s inclusion of the adverb “alone,” rehabilitation may still be considered in concert with other factors that together with rehabilitation present extraordinary and compelling reasons, *see United States v. Brooker*, 976 F.3d 228, 237–38 (2d Cir. 2020), and, indeed, may be an important factor, *see United States v. Frederick Amerson*, No. 05-CR-0301(JS), 2023 WL 4373589 (E.D.N.Y. July 6, 2023) (Seybert, J.); *United States v. Rodriguez*, No. 05-CR-960 (JPO), 2022 WL 158685, at \*4–5 (S.D.N.Y. Jan. 18, 2022).

Section 3006A of title 18 of the United States Code states: “A person for whom counsel is appointed shall be represented at every stage of the proceedings from his initial appearance before the United States magistrate judge or the court through appeal, including ancillary matters appropriate to the proceedings.” I have conferred with Alan Nelson, the Circuit’s CJA Case-Budgeting Attorney, who advises that, under this Circuit’s guidance, sentence-reduction motions qualify as ancillary matters. Accordingly, Mr. Valdez respectfully asks this Court to order my reappointment for the purpose of exploring a sentence-reduction motion on Mr. Valdez’s behalf.

Respectfully submitted,



/s/ Ezra Spilke

cc: All counsel of record, by ECF  
Alexis Valdez, by U.S.P.S.

**The request for reappointment of counsel is GRANTED.**

**Pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A, and the discretion of the Court, Ezra Spilke is hereby reappointed as counsel to represent the Defendant for the purpose of exploring and potentially filing a motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(1)(A)(i).**

**SO ORDERED.**

**Dated: New York, New York  
October 12, 2023**

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*/s/ Kimba M. Wood*  
KIMBA M. Wood  
United States District Judge